

Ordinance No. 7-06 ORDINANCE: To amend chapter 3 “Animals” so as to prohibit the housing and maintaining of livestock in the City limits; to generally amend the provisions prohibiting cruelty to animals, including prohibiting certain methods of tethering animals; to amend certain definitions; to add certain new definitions [[of “livestock” and “fowl”]]; [[and]] to amend the appeal provisions so as to update the court rules reference under which appeals can be taken; and to make certain other amendments to chapter 3.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE that Chapter 3 of the Rockville City Code entitled “Animal Control” be amended as follows:

SECTION 1. That Section 3-4 entitled “Definitions be amended to read as follows:

Sec. 3-4. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative fine means the monetary amount set by resolution of the Mayor and Council and imposed for a violation of this chapter.

Affidavit means a written statement the contents of which are affirmed under the penalties of perjury to be true.

Animal means any [[reptile, amphibian, bird, fish, or non-human mammal, both domestic and wild]] animate being capable of voluntary movement, other than humans. Specifically, a non-human species in the biological kingdom *Animalia*.

Animal exposed to rabies means any animal which has been bitten by an animal which either has rabies or has been exposed to an animal which has or is suspected to have rabies, or any animal which has not been bitten but has been exposed for any period of time to an animal which has rabies.

Animal nuisance means an act including but not limited to the actions described in section 3-21 of this chapter.

Animal shelter means any facility operated by the City, County, or a humane society for the temporary care, confinement and detention of animals and for the humane killing and other disposition of animals. The term shall also include any private facility authorized by the City Manager or the Chief of Police to impound, confine, detain, care for and/or destroy any animal.

Approved handler means any individual who has received written authorization from the Neighborhood Services Division to be accompanied by a particular animal while it is off-leash, provided that said animal has demonstrated an ability to be controlled by non-physical means, either by receiving an American Kennel Club "CD" or "CDX" obedience certificate or by passing an obedience test administered pursuant to section 3-23 of this chapter.

At large means an animal off the premises of its owner/custodian and not leashed or otherwise physically restrained so as to prevent direct contact with people or other animals.

Attack dog means a dog trained to attack on command.

Board means the Animal Matters Board established pursuant to this chapter.

Cage means any interior enclosure of limited space, enclosed on the bottom, top, and all sides by either solid walls, bars, or otherwise, in which animals are placed for any purpose, including confinement or display. No cage shall be enclosed entirely by solid walls.

Cat means any animal of the species *Felis catus*.

County means Montgomery County, Maryland.

Cruelty means any intentional act or omission whereby unjustifiable pain, suffering or death is caused or permitted, including failure to provide appropriate drink, air, space, shelter, or protection from the elements, veterinary care or nutritious food in a quantity sufficient to maintain life.

Dangerous animal means any of the following:

(1) Any animal that without provocation inflicts severe injury on, or kills, a human being either on public or private property;

(2) Any animal that, while off the premise of its owner and without provocation, inflicts severe injury on, or kills, a domestic animal.

[[(2)] (3) Any animal previously declared to be potentially dangerous (level 2) and required to be registered as such pursuant to the provisions of this chapter, that continues the behavior described in the definition of potentially dangerous animal (level 2), as evidenced by: the unprovoked infliction of moderate injury upon a human being while on either public or private property on more than one (1) occasion; the unprovoked ~~[[killing or]]~~ infliction of ~~[[greater than mild]]~~ moderate injury on a domestic animal while ~~[[at large]]~~ off the premises of the owner on more than one (1) occasion; or the unprovoked infliction of mild injury on a human being or domestic animal while at large on more than two (2) occasions within a six (6) month period.

[[(3)] (4) Any animal declared to be dangerous or like term by any other jurisdiction pursuant to definitions and standards of dangerous that are substantially similar to those set forth in this chapter.

Division means the Neighborhood Services Division of the Rockville City Police Department.

Dog means any animal of the species *Canis familiaris*.

Dog fancier means any person who owns or keeps within or adjoining a private residence, three (3) or more dogs for the noncommercial purposes of breeding, hunting, practice tracking, exhibition in dog shows, or field or obedience trials.

Dog fancier's kennel means a private kennel maintained by a dog fancier within or adjoining a private residence for the maintenance or training of the dogs owned or kept by such dog fancier.

Domestic animal means [[those species of animals that generally live in or about the habitation of humans, including, but not limited to dogs, cats, ferrets (*Mustela putorius furo*),]] [[cows, horses, fowl, sheep, goats and pigs.]] [[an animal of a tamed species commonly kept as a pet or livestock]] livestock, and non-predatory birds such as parrots, parakeets, cockatiels, finches, and similar birds. Domestic animal includes lagomorphs (rabbits and hares) bred and raised to live in or about the habitation of humans. Domestic animal does not include a wild animal kept in captivity or a tamed animal of a species not commonly deemed to be domesticated.

Exotic animal means [[all venomous reptiles, and all wild or non-domestic mammals other than rodents, lagomorphs (rabbits and hares), and hoofed animals. A hybrid animal resulting from the mating of an exotic animal as defined above with a domestic animal shall be considered an exotic animal]] a non-native species kept as a pet or livestock, other than a rodent, rabbit or hare, or hoofed animal.

[[Fowl means those larger domesticated birds used as food, including but not limited to chicken, duck, goose, turkey and ostrich. Fowl does not include non-predatory

domesticated birds such as parrots, parakeets, cockatoos, and other similar birds commonly kept as pets.]]

Guard dog means a dog used primarily to protect persons or property.

Health officer means the County Health Officer or duly authorized representative.

Impoundment means the taking into custody of an animal by the Neighborhood Services Division, the County Health Officer, or any authorized representative thereof.

Injury means one (1) of the following, depending on degree:

(1) Mild injury: Physical harm to a human being or animal of minimal medical or cosmetic consequence, such as superficial scrapes, scratches, small punctures or bruises;

(2) Moderate injury: Physical harm to a human being or animal of a lesser degree than severe injury but a greater degree than mild injury as defined in this section;

(3) Severe injury: Physical harm to a human being or animal that results in any broken bones or teeth, muscle tear, laceration requiring multiple sutures or corrective or cosmetic injury, protracted loss or impairment of the function of a body member or organ, or any other medical condition resulting in an inpatient hospital stay or repeated treatments or therapy.

Lawfully on property or in a place means a person on a property or place while in the performance of any duty imposed upon said person by the laws of this State or any City or County, or by the laws or postal regulations of the United States, or is on such property or in such place upon invitation, express or implied. A person entering into an unenclosed yard or open space and not engaged in a crime or other wrongful action against said property or the person or property of the owner or other residents or occupants of the property, shall be considered to be lawfully on said property.

Livestock means those species of domestic animals that are primarily cared for and kept [[or in a]] on a farm or other rural setting, including, but not limited to, chickens, roosters, ducks, geese, [[other fowl]] turkey, ostrich, peacock, emu, horses, cows, sheep, goats, [[and]] swine, [[commercially raised rabbits, hares and other fur-bearing animals; and similar animals]] and other hoofed animals. Livestock includes miniature breeds of such animals. Livestock does not include Vietnamese pot-bellied pigs.

Municipal infraction citation means a civil citation issued pursuant to the provisions of Article 23A of the Annotated Code of Maryland and section 1-9 of this Code.

Notice of violation means an administrative notice issued by a representative of the Division charging a violation of this chapter.

Obedience trained means any animal trained to heel, sit, down, stay, stand for examination and come on command.

Official means the Animal Review Official established pursuant to this chapter.

Owner means any person having temporary or permanent custody of, possessing, keeping, having charge of sheltering, harboring, exercising control over, or having property rights to, any animal covered by this chapter. The term "owner" shall include the keeper of an animal even if said keeper has no property interest in the animal. A parent or guardian of a minor child who comes within this definition shall also be deemed to be the owner of the animal. Owner shall not include any animal shelter or the City when it has the care, custody, or control of an animal.

Potentially dangerous animal (level 1) means any of the following:

- (1) Any animal [at large] off the premises of the owner that without provocation menaces, chases, displays threatening or aggressive behavior, or otherwise threatens or endangers the safety of any person or domestic animal;
- (2) Any animal [at large] off the premises of the owner that without provocation inflicts mild injury on any human being or domestic animal;
- (3) Any animal declared to be potentially dangerous or like term by any jurisdiction;
- (4) Any attack or guard dog.

Potentially dangerous animal (level 2) means any of the following:

- (1) Any animal that without provocation inflicts moderate injury on any human being either on public or private property;
- (2) Any animal [at large] off the premises of the owner that without provocation ~~[[kills or]]~~ inflicts moderate injury on a domestic animal;
- (3) Any animal [at large] off the premises of the owner that without provocation inflicts mild injury on any human being or domestic animal on more than one (1) occasion within a six (6) month period.

Premises of the owner means property owned by the owner, not including any common property of a condominium, planned residential unit development, or homeowner's association that is designated by resolution or other appropriate document of such condominium, development, or association as being property other than that of individual owners or members.

Provoked/provocation means any action or behavior of an animal is provoked or with provocation when it is:

(1) In response to being tormented, teased, abused, threatened or assaulted by any person or animal, or is in response to having previously been tormented, teased, abused, threatened or assaulted by the same person or animal;

(2) In response to pain or injury or was to protect itself, its offspring, or other animals of its household;

(3) Directed against any person who is not lawfully on the property or in the place where the action or behavior occurs, or who is in fact injuring, threatening or endangering the animal's owner or other person in the vicinity, or who is damaging or unlawfully entering the property, household, or enclosure where the animal is harbored.

Respondent means any person charged in a notice of violation or a petition of violating any provision of this chapter.

Restraint means a leash, lead, cage or enclosure by which an animal is secured by an individual of sufficient size, strength and maturity so as to prevent direct contact with people or other animals.

Sanction means any of the restrictions, limitations or requirements set forth in section 3-121 of the chapter imposed on an animal and/or its owner, to eliminate or prevent violations of this chapter and/or to facilitate enforcement of this chapter.

Sanitary means a condition of good order and cleanliness to minimize the possibility of disease transmission.

Secure enclosure means a locked pen or structure, suitable to prevent the entry of young children and designed to prevent an animal from escaping.

Tattooing means any permanent marking by means of indelible or permanent ink with a number designated by the Division, or any other permanent, acceptable method of identification.

Tether means attaching an animal to a stationary object or pulley run by means of a chain, rope, tether, cable, or similar restraint. Tether does not include the use of a leash to walk an animal.

Unprovoked means any action by an animal not deemed to be provoked as defined by this chapter.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.

Wild animal means any animal [[not commonly domesticated or not in fact domesticated]] of a species of an untamable disposition, a species in a state of nature, or a native self-sustaining species. All animals of these species are wild animals even if a particular animal has characteristics that reflect domestication or taming.

SECTION 2. That Section 3-24 entitled “Exotic Animals” be amended to read as follows:

Sec. 3-24. Exotic animals and livestock.

(a) Exotic animals.

It shall be unlawful for anyone to own or harbor any exotic animal without the written permission of the Chief of Police or the Chief’s designee. Such permission must be secured prior to bringing the animal into the City and shall be given only if it is demonstrated that the animal will not constitute a threat to public health or safety, that the animal can be cared for in a manner appropriate to maintain the animal's health and well-being, and that ownership of such animal is done in accordance with this chapter and any applicable City, County, State, or Federal regulations. Wildlife rehabilitators who temporarily care for injured animals may secure a continuous permit to harbor and care for such animals without prior written notification in each case. However, the Chief of Police must be advised of the animals in temporary care within two (2) business days of the animal being brought into the City.

(b) Livestock.

Livestock as defined herein, are prohibited from being housed, or in any way maintained, in the City limits, except under the following circumstances:

(1) Livestock may be maintained in laboratories for research or other scientific purposes.

(2) Livestock may be maintained by schools, day care facilities, and similar institutions if used for education purposes.

(3) Livestock other than roosters and hoofed livestock may be maintained on residential property as part of an educational program for a limited period of time, not to exceed fifteen (15) days.

SECTION 3. That Section 3-26 entitled “Cruelty to Animals” be amended to read as follows:

Sec. 3-26. Cruelty to animals.

(a) It shall be unlawful for any person to wilfully and unjustifiably kill, wound, injure, torture, torment, tease, molest, bait, overdrive, overwork, deprive of necessary

sustenance, needlessly mutilate, poison, abandon or subject to conditions detrimental to its health or general welfare of any animal.

(b) It shall be unlawful for any person to keep animals under unsanitary or inhumane conditions or to fail to provide proper food, water, shelter or reasonably clean quarters, or to fail to provide proper medical attention for sick, diseased or injured animals. Minimal care shall be comprised of, but not limited to, the following:

(1) Food shall be wholesome, palatable and free of contamination. It shall be of sufficient quantity and nutritive value as to maintain all animals in good health.

(2) Clean, potable water shall be available at all times for all animals. Any water receptacle shall be kept clean and sanitary; of appropriate size and design for the animal; and positioned to prevent spillage.

(3) All animals shall be able to stand to their full height, stretch out, turn around, lie down, and make normal postural adjustments comfortably.

(4) Animals shall be allowed to exercise and have freedom of movement as necessary to reduce stress and maintain physical condition.

(5) The following methods of tethering are prohibited: [The continuous maintenance of a dog on a chain or tether is not recommended. Such confinement, however, if used requires a chain or tether of at least ten (10) feet in length, positioned so that at its greatest length prevents the dog from becoming entangled with any obstruction, from partially or totally jumping any fence, or leaving any part of its owner's property.]

a. The ~~[[continuous maintenance of an animal on a tether,]]~~ tethering of an animal by any means other than a harness;

b. Using a tether less than fifteen (15) feet in length.

c. Tethering that unreasonably limits an animal's movement.

d. Tethering under conditions where the animal or tether can become entangled on the tether or some other object.

e. Tethering that restricts an animal's access to suitable and sufficient food, clean water, and appropriate shelter.

f. Tethering in unsafe or unsanitary conditions.

g. Tethering that does not allow an animal to defecate or urinate in an area separate from an area where it must eat, drink or lie down.

h. The maintenance of an animal on a tether between the hours of 10:00 p.m. and 6:00 a.m..

(6) All animals shall have access to sufficient shade from the sun. Shade must be available to [[outdoor]] dogs kept outdoors at all times from sources other than the dog house, whether the shade is natural or manmade.

(7) Shelter All animals kept outdoors shall have access to weatherproof shelter. [Between November 1 and March 30 and in inclement weather, dogs shall have available a structure having at minimum three (3) sides, a roof and a solid floor, with a door or flexible flap of windproof material, and dry bedding such as cedar chips, hay or straw to provide insulation. Other animals shall have available a structure of a style suitable for the species in question and sufficient to keep out the elements.]

a. Dog houses are considered shelter or protection from the weather provided the dog house:

1. Is constructed of solid wood, fiberglass or other weather-resistant material (excluding metal).
2. Is at least 2" off the ground, with a solid, level floor.
3. Does not contain cracks or openings other than the entrance.
4. Has a protected entrance or offset to act as a windbreak with a flexible flap made of windproof material when the temperature is below 45 degrees.
5. Contains [[non-absorbent]] bedding such as wood chips or straw.
6. Is sufficiently large enough that the dog is able to stand up and turn around while inside, but is sized to allow the dog to warm the interior of the structure and retain its own body heat.

b. Garages, sheds, screened or enclosed porches and alcoves may be considered shelter or protection from the weather, provided that:

1. During the spring and summer, the structure is ventilated so as to provide movement of air.
2. In a heated structure during fall and winter, an area must be provided for the dog that contains bedding (blankets, wood chips, etc.) sufficient to keep the animal insulated from the floor of the structure.

3. In an unheated structure during fall and winter, an enclosure must be provided consisting of four walls and a top (which may also be an igloo-type house), and is sufficiently large enough that the dog is able to stand up and turn around while inside; said enclosure is for the purpose of retaining the body heat of the dog; bedding (blankets, wood chips, etc.) must also be provided.

c. Any time that a dog is left outside, tethered or not, and the owner is absent from the property, a suitable structure (dog house, shed, screened porch, alcove or working pet door) must be provided as shelter for the dog, and if tethered, the tether must be positioned so the dog may enter the structure easily.

d. Other animals shall have available a structure of a style suitable for the species in question and sufficient to keep out the elements.

(8) An animal shall be afforded immediate veterinary care if it is known or suspected to be ill or injured.

(9) Both indoor and outdoor enclosures shall receive cleaning as necessary to remove excreta and debris so as to minimize disease hazards, odor and danger to the animal.

(10) Animals with haircoats requiring grooming to prevent severe matting, filth accumulation and/or skin disease shall be groomed in accord with normal and accepted grooming practices.

(11) Animals which are transported on, or in the back of, trucks or other open-bed vehicles, must either be cross-tethered or confined in a suitable cage made of wood, wire or plastic to prevent them from departing the vehicle while it is in motion. The cage must be anchored or tethered to prevent movement while the vehicle is in motion.

(c) It shall be unlawful for any person to promote, stage, hold, manage, conduct, carry on, or attend any illegal game, exhibition, contest, fight, or combat between one (1) or more animals or between animals and humans, or to set free any animal for the purpose of chasing or having a race thereafter. This shall include but is not limited to hares or rabbits, cocks or other fowl, and dogs.

(d) It shall be unlawful for any person, partnership or corporation being the owner, possessor, or custodian of a dog, cat, or other domestic animal to abandon such animal.

(e) It shall be unlawful to give away any live animal as a prize or premium or as an attraction to conduct further business.

(f) It shall be unlawful to sell, offer for sale, barter, or give away baby chickens, ducklings, or other fowl, under three (3) weeks of age or rabbits under two (2) months of age or to color, dye, stain or otherwise change the natural color of said animals or fowl.

(g) It shall be unlawful for any person to sell, give away or barter any domestic dog or cat less than eight (8) weeks of age unless accompanied by its dame. This provision does not apply to animals being surrendered to an animal control agency, shelter, pound, or humane organization.

(h) It shall be unlawful for any person to place or confine an animal or allow an animal to be placed or confined in a motor vehicle under such conditions or for such period of time as to endanger the health or well-being of such animal due to temperature, lack of food or drink or such other conditions as may reasonably be expected to cause suffering, disability or death.

SECTION 4. That Section 3-119 entitled "Subsequent violations" be amended to read as follows:

Sec. 3-119. Subsequent violations.

(a) Except as provided for in subsection (b) of this section, where ~~[[Where]]~~ reasonable grounds exist for believing that a repeat violation of the same provision, or the fourth violation of any provision, of this chapter has occurred within a twelve (12) month period, the Neighborhood Services Division shall issue a notice of a violation directing the Respondent to appear at a hearing before the Animal Review Official.

(b) A notice of violation issued for a second violation of the same animal nuisance provisions contained in section 3-21 (1), (4), (6), (7), (8), (9) or (10) shall impose an administrative fine in the amount set by resolution of the Mayor and Council, which fine may be paid within ten (10) business days of the date of the notice in lieu of a hearing before the Animal Review Official.

(1) Payment of the fine imposed shall constitute an admission that a violation occurred, and the acts alleged shall be deemed to be a second violation.

(2) If the fine is not timely paid, the respondent must appear at the scheduled hearing before the Animal Review Official.

~~[[b)]]~~ (c) If, following a hearing on either a notice of violation or a petition pursuant to section 2-113(e)(2), the Animal Review Official determines that a second violation of the same provision has occurred, said official shall issued an order so declaring and imposing the appropriate administrative fine along with those administrative sanctions and restrictions deemed necessary to eliminate the violation and prevent its recurrence or to protect the public health and safety.

~~[[c)]]~~ (d) If, following a hearing on a notice of violation or on a petition pursuant to section 3-113(e)(2), the Animal Review Official determines that a third violation of the same provision, or a fourth violation of any provision of this chapter has occurred, said

Official shall issue an order imposing the applicable fine set by the Mayor and Council, shall revoked any license issued for the animal(s) in question, and unless good cause to the contrary is shown, shall order the animal(s) in question permanently removed from the City.

SECTION ~~[[4]]~~5. That Section 3-123 entitled "Appeals" be amended to read as follows:

Sec. 3-123. Appeals.

Any person aggrieved by any decision or order of the Animal Review Official may appeal the same to the Circuit Court for the County, in accordance with the Maryland Rules as set forth in [Chapter 1100, Subtitle B] Title 7, Chapter 200. The appeal provided by this subsection shall be the exclusive and sole method of review of any such decision or order.

NOTE: [Brackets] indicate material deleted.
 Underlining indicates material added.
 ~~[[Double Brackets]]~~ indicate material deleted after introduction.
 Double Underlining indicates material added after introduction.

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I hereby certify that the foregoing is a true and correct copy
of an Ordinance adopted by the Mayor and Council at its
meeting of August 7, 2006.

Claire F. Funkhouser, CMC, City Clerk